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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,878	04/07/2000	Michael Dennis Krysiak	P/23-5-CIP	1363

7590

12/18/2002

Philip M Weiss  
Weiss & Weiss  
500 Old Country Road  
Suite 305  
Garden City, NY 11530

EXAMINER

VALENTI, ANDREA M

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/544,878

Applicant(s)

KRYSIK ET AL.

Examiner

Andrea M. Valenti

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6, 19, 18, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by European Patent EPO 0010630 to Wieser et al.

Regarding Claims 19, 21, and 6, Wieser et al teaches a method of making seed capsules (Page 1 line 1-2) in a single apparatus by a tumbling/agitation agglomeration operation by preconditioning the seed with a binding agent while tumbling the seed; conditioning the seeds by tumbling the seed in a bed of fine particulate to create layers of matter about the seed (Page 4 line 11-14).

Regarding Claim 18, Wieser et al discloses wrapping more than one nucleus/seed in layers of fine particles (Page 2 line 4-5, line 22-25, and Page 3 line 24-26).

Regarding Claim 20, Wieser et al teaches the preconditioning of spraying a precoated material on the seed and subsequently driving off any binding agent used to apply the particulate layers on the seed (Page 4 line 14-17).

Claims 6, 19, 18, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 4,465,017 to Simmons.

Regarding Claims 19, 21, and 6, Simmons teaches a method of making seed capsules (Col. 8 line 40 to Col. 9 line 9) in a single apparatus by a tumbling/agitation agglomeration operation by preconditioning the seed with a binding agent while tumbling the seed; conditioning the seeds by tumbling the seed in a bed of fine particulate to create layers of matter about the seed.

Regarding Claim 18, Simmons discloses wrapping more than one nucleus/seed in layers of fine particles (Col. 8 line 39).

Regarding Claim 20, Simmons teaches the preconditioning of spraying a precoated material on the seed and subsequently driving off any binding agent used to apply the particulate layers on the seed (Col. 7 line 41).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent EPO 0010630 to Wieser et al.

Regarding Claims 4-17, Wieser et al teaches an agglomeration process utilizing a tumbler or rotating drum (Page 4 line 13), but Wieser et al is silent on specifically identifying a pan pellitizer, disk pellitizer, balling disk, paddle mixer, horizontal pan, powder blenders, flow-jet mixer, planetary mixer, cone mixer, ribbon mixer, pin type mixer, vertical mixer, pin mixer, cone pelletizer, fluidized bed. However, these

apparatuses are all old and well-known seed coating or mixing machines. It would have been obvious to one of ordinary skill in the art to modify the teachings of Wieser et al with any of the machines listed in claims 4-17 since these are merely alternate equivalent agglomeration machines that perform the same intended function of agglomerating particles with a coating and one would select a particular agglomeration machine to satisfy different economic, maintenance, and time parameters and to accommodate different types of fertilizers or nutrient coatings.

Regarding Claim 22, Wieser et al is silent on the preconditioning and conditioning steps are repeated to add additional layers to the seed. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely duplicating the process to provide a more comprehensive seed coat and does not present a patentably distinct limitation.

Claims 4-17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,465,017 to Simmons

Regarding Claims 4-17, Simmons teaches an agglomeration process utilizing a tumbler or rotating drum (Col. 8 line 40 – Col. 9 line 14), but Simmons is silent on specifically identifying a pan pellitizer, disk pellitizer, balling disk, paddle mixer, horizontal pan, powder blenders, flow-jet mixer, planetary mixer, cone mixer, ribbon mixer, pin type mixer, vertical mixer, pin mixer, cone pelletizer, fluidized bed. However, these apparatuses are all old and well-known seed coating or mixing machines. It would have been obvious to one of ordinary skill in the art to modify the teachings of

Simmons with any of the machines listed in claims 4-17 since these are merely alternate equivalent agglomeration machines that perform the same intended function of agglomerating particles with a coating and one would select a particular agglomeration machine to satisfy different economic, maintenance, and time parameters and to accommodate different types of fertilizers or nutrient coatings.

Regarding Claim 22, Simmons is silent on the preconditioning and conditioning steps are repeated to add additional layers to the seed. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely duplicating the process to provide a more comprehensive seed coat and does not present a patentably distinct limitation.

### ***Response to Arguments***

Applicant's arguments with respect to claims 4-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

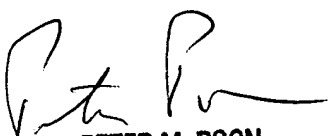
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-0285 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4357.

AMV  
December 11, 2002



PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600